

JAN 24 2019

A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. The legislature finds that Act 155, Session Laws of Hawaii 2013 (Act 155), was approved by the governor on June 21, 2013. The purpose of Act 155 was to optimize the use of public school lands to generate opportunities to improve public school facilities and infrastructure to meet the challenges of the twenty-first century and to improve the overall quality of education in Hawaii. In particular, Act 155 established a pilot program to generate revenue from uses for public purposes, such as workforce housing, to build and retrofit twenty-first century schools, and create more school-centered communities. The pilot program laid important groundwork for a statewide approach and plan to optimize public school lands and modernize public school facilities.

The legislature further finds that in subsequent discussions with government agencies and private developers, the existing fifty-five year lease term allowed for in Act 155 would



1 be problematic in financing redevelopment projects. Also, the
2 department of education has been working closely with the Hawaii
3 housing finance and development corporation for assistance in
4 the implementation of redevelopment projects on department of
5 education-controlled lands. The Hawaii housing finance and
6 development corporation is pursuing ninety-nine year leasehold
7 condominiums for some of their housing projects on state-owned
8 lands. Extending the lease terms for redevelopment under
9 Act 155 would allow prospective developers flexibility in
10 securing financing as well as insuring a better long-term return
11 to the State for the use of its lands.

12 The purpose of this part is to allow the department of
13 education to lease public school lands for a term of not more
14 than ninety-nine years per lease to provide prospective
15 developers flexibility in securing financing.

16 SECTION 2. Section 302A-1151.1, Hawaii Revised Statutes,
17 is amended by amending subsection (b) to read as follows:

18 "(b) Notwithstanding sections 171-13 and 302A-1151, or any
19 other law to the contrary, the department may lease public
20 school land on terms it deems appropriate, including a leaseback



1 of all or a portion of the improvements constructed; provided
2 that:

3 (1) The board may identify and select up to five public
4 school land sites as candidates for participation in
5 the pilot program; provided that:

6 (A) During the identification and selection process,
7 the board shall be subject to chapter 92, shall
8 hold at least one public meeting in each affected
9 community, and shall foster school and community
10 participation; and

11 (B) If the site is on land owned by the county, the
12 department shall consult with the county;

13 (2) The department may lease public school land for no
14 more than three public school land sites identified
15 and selected by the board pursuant to paragraph (1)
16 under leases for a term of not more than [~~fifty-five~~
17 ~~years per lease, unless extended pursuant to section~~
18 ~~171-36,~~] ninety-nine years per lease, to lessees who
19 shall be required to modify, construct, or utilize
20 facilities to benefit public educational purposes, in



1 accordance with specific request for proposal or
2 request for information guidelines;

3 (3) Each lease shall stipulate that the lessee may retain
4 any revenue generated from the facilities; provided
5 that:

6 (A) The lessee shall be obligated to maintain and
7 operate the facilities to benefit public
8 educational purposes for the length of the lease;

9 (B) The lessee shall be obligated to pay to the
10 county all applicable property tax on the value
11 of any improvements;

12 (C) A leasehold premium may be charged to the lessee
13 for the right to use the public school land based
14 on a competitive process that complies with
15 applicable sections of chapter 103D;

16 (D) Upon the expiration of the lease, the facilities
17 shall revert to the department; and

18 (E) All revenues and proceeds derived by the State
19 under this section shall be deposited in the
20 school facilities subaccount pursuant to section
21 302A-1151.2; and



(4) Notwithstanding any law to the contrary, the department may enter into leaseback agreements that allow the department to lease or sublease the property to a third party. The department may lease back the property from the third-party lessee or sublessee for a contractual period of time, after which the department shall own any improvements."

PART II

SECTION 3. The legislature finds that Act 210, Session Laws of Hawaii 2018 (Act 210), was approved by the governor on July 10, 2018. The purpose of Act 210 was to transfer lands under existing department of education facilities from the city and county of Honolulu to the department of education. Act 210 also allowed the department of education to hold fee title to property on which department facilities are located.

The legislature further finds that in the implementation of Act 210, the split ownership of the underlying fee simple lands under existing schools creates problems for redevelopment, especially when private investment is involved. In order to allow the department of education flexibility to redevelop or reposition its assets, the State should consolidate ownership of



1 the lands under existing public schools. Furthermore, from an
2 asset management standpoint, the department of education should
3 also be given the authority and responsibility to own the real
4 property on which its educational facilities are located. This
5 will allow the department of education to maximize the value of
6 its real estate assets as it seeks to redevelop and reposition
7 public educational facilities in the future.

8 The purpose of this part is to amend Act 210, Session Laws
9 of Hawaii 2018, by adding an additional parcel to the list of
10 transferred lands from the city and county of Honolulu to the
11 department of education.

12 SECTION 4. Act 210, Session Laws of Hawaii 2018, section 2
13 is amended by amending subsection (a) to read as follows:

14 "(a) Notwithstanding any other law to the contrary, the
15 fee simple interest to the following parcels of land with the
16 existing improvements thereon (hereinafter "the properties")
17 (but not including submerged land, accreted land, or any land
18 makai of the shoreline), shall be conveyed by the city and
19 county of Honolulu to the department of education as grantee, as
20 is, where is:

21 (1) TMK 1-4-4-3-16 (Aikahi elementary);



- 1 (2) TMK 1-4-5-16-1 (Ben Parker elementary);
- 2 (3) TMK 1-4-2-2-37 (portion) (Enchanted Lake elementary);
- 3 (4) TMK 1-4-6-31-20 (Heeia elementary);
- 4 (5) TMK 1-4-7-12-24 (portion) (Kahaluu elementary);
- 5 (6) TMK 1-4-3-56-9 (portion) (Kailua elementary);
- 6 (7) TMK 1-4-3-56-9 (portion) (Kailua intermediate);
- 7 (8) TMK 1-4-3-76-15 (Kainalu elementary);
- 8 (9) TMK 1-4-5-103-11 (Kaneohe elementary);
- 9 (10) TMK 1-4-5-78-14 (portion) (Kapunahala elementary);
- 10 (11) TMK 1-4-2-92-1 (portion) (Keolu elementary);
- 11 (12) TMK 1-4-6-4-2 (King intermediate);
- 12 (13) TMK 1-5-5-15-23 (Laie elementary);
- 13 (14) TMK 1-4-2-55-12 (Lanikai elementary);
- 14 (15) TMK 1-4-2-43-2 (portion) (Maunawili elementary);
- 15 (16) TMK 1-4-5-30-38 (portion) (Puohala elementary);
- 16 (17) TMKs 1-4-8-9-9, 1-4-8-9-11 (Waiahole elementary);
- 17 (18) TMK 1-9-4-59-73 (August Ahrens elementary);
- 18 (19) TMK 1-9-1-115-13 (Ewa Beach elementary);
- 19 (20) TMK 1-9-7-36-124 (Highlands intermediate);
- 20 (21) TMK 1-9-1-1-2 (portion) (Ilima intermediate);
- 21 (22) TMK 1-9-1-1-3 (Iroquois Point elementary);



- 1 (23) TMK 1-9-7-17-2 (portion) (Lehua elementary);
- 2 (24) TMK 1-8-7-4-42 (portion) (Maili elementary);
- 3 (25) TMK 1-8-4-25-10 (Makaha elementary);
- 4 (26) TMK 1-9-7-93-16 (portion) (Palisades elementary);
- 5 (27) TMK 1-9-7-24-2 (Pearl City elementary);
- 6 (28) TMK 1-9-7-36-122 (Pearl City Highlands elementary);
- 7 (29) TMK 1-9-1-1-2 (portion) (Pohakea elementary);
- 8 (30) TMK 1-8-5-1-67 (Waianae elementary);
- 9 (31) TMKs 1-9-4-10-98, 1-9-4-29-1 (Waipahu elementary);
- 10 (32) TMK 1-9-4-1-29 (portion) (Waipahu intermediate);
- 11 (33) TMK 1-1-1-10-33 (portion) (Aliamanu elementary);
- 12 (34) TMK 1-1-1-10-33 (portion) (Aliamanu intermediate);
- 13 (35) TMKs 1-9-8-29-2, 1-9-8-29-29 (Alvah Scott elementary);
- 14 (36) TMKs 1-6-6-13-11, 1-6-6-13-13, 1-6-6-14-15 (Haleiwa
15 elementary);
- 16 (37) TMK 1-7-1-2-17 (Helemano elementary);
- 17 (38) TMK 1-7-5-27-2 (portion) (Iliahi elementary);
- 18 (39) TMK 1-7-3-19-13 (Kaala elementary);
- 19 (40) TMK 1-9-5-21-2 (portion) (Kipapa elementary);
- 20 (41) TMK 1-1-1-34-42 (Moanalua elementary);
- 21 (42) TMK 1-1-1-9-5 (portion) (Moanalua intermediate);



- 1 (43) TMK 1-1-1-2-6 (Nimitz elementary);
- 2 (44) TMK 1-1-1-10-27 (Pearl Harbor elementary);
- 3 (45) TMKs 1-7-1-2-8, 1-7-5-5-7, 1-7-5-5-3 (Wahiawa
- 4 elementary);
- 5 (46) TMK 1-6-7-1-10 (Waialua elementary);
- 6 (47) TMK 1-9-8-8-7 (portion) (Waimalu elementary);
- 7 (48) TMK 1-3-6-11-9 (portion) (Aina Haina elementary);
- 8 (49) TMKs 1-3-4-4-6, 1-3-4-4-7 (Anuenue elementary);
- 9 (50) TMKs 2-1-005-001 (portion), 2-1-009-002, 2-1-009-003
- 10 (Central intermediate);
- 11 (51) TMKs 1-1-3-24-5 (portion) (Dole intermediate);
- 12 (52) TMKs 1-1-3-1-23, 1-1-3-1-17 (portion) (Fern
- 13 elementary);
- 14 (53) TMK 3-9-038-001 (portion) (Hahaione elementary);
- 15 (54) TMKs 2-8-029-010, 2-8-029-011 (Hokulani elementary);
- 16 (55) TMK 2-4-012-002 (Kaahumanu elementary);
- 17 (56) TMKs 1-3-024-001, 1-3-024-002 (Kaewai elementary);
- 18 (57) TMK 1-3-5-11-27 (Kahala elementary);
- 19 (58) TMK 3-2-059-002 (Kaimuki intermediate);
- 20 (59) TMKs 1-5-024-040, 1-5-025-002 (portion) (Kalakaua
- 21 intermediate);



- 1 (60) TMK 1-1-4-7-2 (portion) (Kalihi elementary);
- 2 (61) TMK 1-5-025-002 (portion) (Kalihi-Kai elementary);
- 3 (62) TMKs 1-3-035-001 (portion), 1-3-036-079 (Kalihi-Uka
- 4 elementary);
- 5 (63) TMK 3-9-005-061 (Kamiloiki elementary);
- 6 (64) TMK 1-1-6-26-22 (Kapalama elementary);
- 7 (65) TMK 1-7-023-042 (Kauluwela elementary);
- 8 (66) TMK 1-2-2-9-11 (Kawananakoa intermediate);
- 9 (67) TMK 3-9-022-037 (Koko Head elementary);
- 10 (68) TMKs 1-2-7-17-30, 1-2-7-27-10 (portion) (Kuhio
- 11 elementary);
- 12 (69) TMK 1-3-2-21-35 (Liholiho elementary);
- 13 (70) TMKs 1-1-6-8-16, 1-1-6-8-22, 1-1-6-8-24, 1-1-6-8-38,
- 14 1-1-6-8-58 (Likelike elementary);
- 15 (71) TMK 1-1-3-39-5 (Linapuni elementary);
- 16 (72) TMKs 1-2-3-30-55, 1-2-3-30-56 (Lunalilo elementary);
- 17 (73) TMK 2-9-036-003 (portion) (Manoa elementary);
- 18 (74) TMK 3-7-003-010 (portion) (Niu Valley intermediate);
- 19 (75) TMK 1-2-9-23-29 (Noelani elementary);
- 20 (76) TMK 1-2-2-43-11 (Nuuanu elementary);
- 21 (77) TMK 1-3-4-2-1 (Palolo elementary);



- 1 (78) TMK 1-2-2-16-20 (portion) (Pauoa elementary);
2 (79) TMK 1-1-2-8-1 (Puuhale elementary);
3 (80) TMK 1-3-2-45-3 (Waialae elementary);
4 (81) TMK 1-3-1-25-1 (portion) (Waikiki elementary);
5 (82) TMK 1-2-3-26-1 (Washington intermediate); [and]
6 (83) TMK 3-5-017-012 (portion) (Wilson elementary) [-]; and
7 (84) TMK 2-4-002-019 (student transportation service office
8 - Young street)."

PART III

10 SECTION 5. The legislature finds that Act 206, Session
11 Laws of Hawaii 2017 (Act 206), was approved by the governor on
12 July 12, 2017. The purpose of Act 206 was to transfer lands
13 under existing department of education facilities from the city
14 and county of Honolulu to the department of land and natural
15 resources.

16 The legislature further finds that rather than have the
17 lands transferred from the city and county of Honolulu to the
18 department of land and natural resources and then to the
19 department of education, Act 206 should be amended to allow the
20 city and county of Honolulu to transfer the lands directly to



1 the department of education in a similar manner pursuant to
2 Act 210, Session Laws of Hawaii 2018.

3 The purpose of this part is to amend Act 206, Session Laws
4 of Hawaii 2017, to allow the city and county of Honolulu to
5 transfer lands under existing department of education facilities
6 directly to the department of education, rather than to the
7 department of land and natural resources.

8 SECTION 6. Act 206, Session Laws of Hawaii 2017, section 2
9 is amended by amending subsections (a), (b), and (c) to read as
10 follows:

11 "(a) Notwithstanding any other law to the contrary, the
12 fee simple interest to the following parcels of land with the
13 existing improvements thereon (hereinafter "the properties")
14 (but not including submerged land, accreted land, or any land
15 makai of the shoreline), shall be conveyed by the city and
16 county of Honolulu to the department of [~~land and natural~~
17 ~~resources~~] education as grantee, as is, where is:

18 (1) TMK 1-4-5-34-14 (Castle High);

19 (2) TMKs 1-5-6-6-9, 1-5-6-6-10, and 1-5-6-6-25 (Kahuku
20 High and Elementary);

21 (3) TMK 1-4-4-34-24 (Kalaheo High);



- 1 (4) TMK 1-9-1-1-2 (portion) (Campbell High);
2 (5) TMK 1-8-5-15-1 (Waianae High);
3 (6) TMK 1-9-4-8-20 (Waipahu High);
4 (7) TMK 1-9-8-31-17 (Aiea High);
5 (8) TMK 1-7-4-18-1 (Leilehua High);
6 (9) TMK 1-9-9-2-23 (Radford High);
7 (10) TMK 1-6-7-2-10 (Waialua High and Intermediate);
8 (11) TMKs 1-6-003-048, 1-6-021-005 (Farrington High);
9 (12) TMK 2-7-024-001 (Kaimuki High);
10 (13) TMK 3-9-005-027 (Kaiser High); and
11 (14) TMK 3-5-020-004 (Kalani High).

12 (b) The city and county of Honolulu shall prepare,
13 execute, and record, in the land court or bureau of conveyances,
14 as appropriate, a quitclaim deed to convey each above-listed
15 parcel with all existing improvements, subject to the property
16 boundaries determined pursuant to subsection (d), to the
17 department of [~~land and natural resources,~~] education, as
18 grantee. As these are conveyances in which the city and county
19 of Honolulu and the State and its agencies are the only parties,
20 the tax imposed by section 247-1, Hawaii Revised Statutes, shall
21 not apply to them. Effective on the date of transfer pursuant



1 to subsection (e), every reference to the present titleholder or
2 the head of the department or agency in each instrument, if the
3 titleholder is a department or an agency, shall be construed as
4 a reference to the department of [~~land and natural resources~~]
5 education.

6 (c) The department of [~~land and natural resources~~]
7 education shall accept the properties in their existing
8 condition. All claims and liabilities against the city and
9 county of Honolulu, if any, which the department of [~~land and~~
10 ~~natural resources~~] education has, may have had, or may have in
11 the future, regarding any injury, loss, cost, damage, or
12 liability, including reasonable attorney's fees, concerning the
13 physical, environmental, soil, economic, and legal conditions of
14 the conveyed properties, are released, waived, and
15 extinguished."

16 PART IV

17 SECTION 7. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 8. This Act shall take effect on July 1, 2019.

20
INTRODUCED BY:

Michelle N. Kidani
[Signature]
[Signature]



S.B. NO. 1303

Scott A. Clary



S.B. NO. 1303

Report Title:

Public School Lands; Lease; Department of Education; Transfer

Description:

Part I: Allows the department of education to lease public school lands for a term of not more than ninety-nine years per lease. Part II: Amends Act 210, Session Laws of Hawaii 2018, by adding an additional parcel to the list of transferred lands from the city and county of Honolulu to the department of education. Part III: Amends Act 206, Session Laws of Hawaii 2017, to allow the city and county of Honolulu to transfer lands under existing department of education facilities directly to the department of education, rather than to the department of land and natural resources.

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